

**CITY OF MILPITAS
APPROVED**

PLANNING COMMISSION MINUTES

February 22, 2006

**I.
PLEDGE OF
ALLEGIANCE**

Chair Williams called the meeting to order at 7:00 P.M. and led the Pledge of Allegiance.

**II.
ROLL CALL**

Present: Ali-Santosa, Azevedo, Galang, Mandal, Tabladillo and Williams
Absent: Ciardella
Staff: Bejines, Carrington, Duncan, Hom, Pio Roda, Rodriguez and Williams

**III.
PUBLIC FORUM**

Chair Williams invited members of the audience to address the Commission on any topic not on the agenda, noting that no response is required from the staff or Commission, but that the Commission may choose to agendaize the matter for a future meeting.

There were no speakers from the audience.

**IV.
APPROVAL OF MINUTES
February 8, 2006.**

Chair Williams called for approval of the minutes of the Planning Commission meeting of February 8, 2006.

There were no changes to the minutes.

Motion to approve the February 8, 2006 minutes as submitted.

M/S: Galang/Azevedo

AYES: 6

NOES: 0

**V.
ANNOUNCEMENTS**

Tom Williams, Planning and Neighborhood Services Director announced that there is an opening for the Mobile Home Review Board and interested applicants should contact the City Clerk's office.

Chair Williams asked the Commission to e-mail the Planning Director by Friday, February 24th, possible agenda items for a joint Planning Commission and City Council meeting.

**VI.
CONFLICT
OF INTEREST**

Chair Williams asked if the Commission has any conflict of interest on tonight's agenda.

There were no Commissioners that identified a conflict of interest.

**VII.
APPROVAL OF
AGENDA**

Chair Williams called for approval of the agenda.

Staff recommended that Item No. 2 (Use Permit Amendment No. UA2006-1), be added to the consent calendar.

Commissioner Ali-Santosa asked if the hours of operation will remain the same and Mr. Williams said yes.

Motion to add Item No. 2 to the consent calendar.

M/S: Azevedo/Galang

AYES: 6

NOES: 0

**VIII.
CONSENT CALENDAR
Item Nos. 1 and 2**

Chair Williams asked whether staff, the Commission, or anyone in the audience wished to remove or add any items to the consent calendar.

Staff had no changes to the consent calendar.

Chair Williams opened the public hearing on Consent Item Nos. 1 and 2.

There were no speakers from the audience.

Close the public hearing

Motion to close the public hearing on Consent Item No. 2 and continue Item No. 1 to March 8, 2006.

M/S: Azevedo/Mandal

AYES: 6

NOES: 0

Motion to approve the consent calendar on Consent Item Nos. 1 and 2.

M/S: Azevedo/Mandal

AYES: 6

NOES: 0

***1 USE PERMIT NO. UP2005-27:** A request to locate six (6) panel antennas and four (4) associated equipment cabinets in the Great Mall Tower sign and install a roof top penthouse for the operation of the omnipoint T-Mobile network located at 447 Great Mall Drive. (*Recommendation: Continue to March 8, 2006*)

***2 USE PERMIT AMENDMENT NO. UA2006-1:** A request for the sales of all types of alcohol for an existing restaurant within Ulfert's Center located at 692 Barber Lane. (*Recommendation: Approval with Conditions*)

**IX.
PUBLIC HEARING**

**1.
MAJOR TENTATIVE
MAP NO. MA2004-3,
ZONE CHANGE NO.
ZC2004-1, "S" ZONE
APPROVAL
AMENDMENT NO.
SA2005-16, AND
ENVIRONMENTAL
IMPACT ASSESSMENT
NO. EA2005-8**

Kim Duncan, Junior Planner, presented a request for a five (5) lot subdivision of a .95 gross acre, (.735 net acre) parcel, rezoning from Agriculture (A) to Single-Family Residential (R1-6), and removal of protected trees, located on the southeast portion of Calaveras and Piedmont Roads at 2016 Calaveras Road and recommended approval with conditions. Ms. Duncan also referenced the memo that was passed out to the Commission noting the following correction to the staff report:

Page 5, 4th paragraph, line 9 should read "...replace the trees at a 2:1 ratio with ~~36~~ 24" box trees."

Vice Chair Galang asked about the proposed building footprints and driveways that require the removal of eight protected trees. Ms. Duncan explained that the applicant was initially proposing a circular driveway, however, they would have exceeded the requirements for front yard coverage limitation so they chose a hammerhead style driveway instead. She also explained that because of the restrictions on the site, the applicant would have to remove the trees in order to meet the zoning ordinance requirements as well as have safe access.

Vice Chair Galang asked to explain the hammerhead driveway and Ms. Duncan said that it is like an enlarged T that enables cars to drive in and to back out, yet back out in reverse where they can leave the parcel vehicle front end.

Commissioner Mandal asked staff to explain the extent of the scenic route. Ms. Duncan said that it is right on Calaveras Road in front of the site and showed the Commission a copy of the scenic route map from the General Plan.

Commissioner Mandal asked if the scenic corridor will be compromised by this project and Ms. Duncan explained that because the general plan designation is single-family low density, there was a determination back in 1998 with the general plan amendment that single-family residential districts are exempt from scenic corridor policies.

Commissioner Mandal asked if there is a sign on Calaveras that states scenic route and Ms. Duncan said no.

Commissioner Tabladillo said she is concerned that there is not a neighborhood community impact analysis in the staff report and wants to make sure that staff is making an effort to work with the community.

Commissioner Ali-Santosa asked about mitigation to prevent urban runoff to the creek behind the property line and clarification on condition no. 13 that reads below:

13. Install sandbags or other erosion control measures to prevent silt runoff to public roadways. (Mitigation Measure III.d-7) (P)

Ms. Duncan explained that the applicant is proposing new drainage on the rear that will drain the water through Calaveras Road and away from the creek.

Chair Williams asked staff why they changed the 2:1 ratio for the replacement trees from a 36" box tree to a 24" box tree. Ms. Duncan said that the City's street and landscape supervisor recommended a 24" box tree for replacement because they have a better chance of surviving than a larger size.

Chair Williams invited the applicant to come forth.

Sylvia Leung, Co-Owner of the property, stated that she has lived in Milpitas for 20 years and has been in business for 13 years and enjoys working with the City of Milpitas. They purchased the parcel a couple of years ago and are looking forward to developing five parcels. She noted they worked with Santa Clara Valley Water District and gave away 15 feet of their backyard to ensure the safety of driving in and out. She said they are in conformance with the General Plan and do not need a variance. She asked the Commission to approve the project

Commissioner Azevedo asked what would be the price of the homes. Ms. Leung said that she is hoping to price the homes from \$800,000 to \$900,000 for homes that are between 2,500 and 2800 square feet.

Commissioner Tabladillo asked the applicant how much she worked with the neighbors behind the parcels. Ms. Leung said that she only heard from one neighbor, and at the time, the City was considering using the lot as a parking lot for another project. She felt that the new development would make the area look nicer.

Vice Chair Galang asked if the property is located at the foothills of the mountain and Ms. Leung said the property is located on flat land.

Chair Williams opened the public hearing.

Manuel Franco, 80 Evans road, said that the horse ranch is located on the northeast corner of the property and wanted prospective buyers to be aware that the horse ranch has been there since the 1800's. With the ranching comes the view of horses and cows and flies and the smell of manure. He recommended that this information be included in the CC&R's.

David Blanch, Alviso Adobe Court, said that he wasn't contacted from the city about tonight's meeting. He is concerned about the use of this land for residential and is concerned about significant impacts to traffic. He is also concerned about adding street lights and removing the protected trees.

Jaime Rodriguez, Traffic Engineer, said that staff reviewed this project and agreed that there will not be a traffic impact. The biggest concern staff had was the driveway access and wanted to make sure that people that purchase the homes have the ability to exit the property by driving forward and not have to back up on Calaveras Rd. Staff felt that the proposal by the developer for a hammerhead driveway is a good concept because it allows a 3 point turn on the site. In addition, traffic engineering recommended a dynamic vehicle feedback sign be installed for westbound Calaveras Road, just to the east of Old Piedmont Road.

Commissioner Azevedo asked staff to explain the street lights. Mr. Rodriguez said that the street lights are for safety for the residents. Staff did require that a \$15,000 bond be provided should the developer warrant a traffic signal sometime in the future at the corner of Calaveras Road and Evans Roads, however at this time, the signal is not warranted.

Close the public hearing

Motion to close the public hearing.

M/S: Azevedo/Tabladillo

AYES: 6

NOES: 0

Commissioner Mandal asked how much visibility would a person have with the hammerhead driveway. Mr. Rodriguez explained that a hammerhead driveway gives the opportunity for someone who pulls into the site to back up on site and exit leaving forward.

Commissioner Mandal noted that a traffic impact analysis was done for the Alviso/Adobe project and then one done for this project and asked staff to explain the difference. Mr. Rodriguez pointed out that the Alviso/Adobe project was separate and the property was originally going to be used for a parking lot. There are currently three existing homes near the site and the applicant wants to add five homes. Staff's goal is to make sure that residents are safe entering into their home and out and that is also why staff asked for the \$15,000 bond.

Commissioner Tabladillo said she understands that people speed down the hill and asked what can be done about kids playing outside and how can enforcement occur. Mr. Rodriguez said that the responsibility of making sure that enforcement can actually occur falls back on the traffic engineer. He has to make sure that the City's engineering traffic surveys establishes current speed limits for the City. Staff just finished surveys on Calaveras Road and found out that vehicles were traveling much faster than the posted speed of 30 mph. The City just installed a guard rail and made surface improvements on Calaveras Road and as a result, the ability to drive faster on this street occurred and there were minimal crashes in the two year period and more rear end accidents at the stop sign so staff recommended a speed limit of 35 mph so that a police officer would not have to be there all day long.

Commissioner Tabladillo asked if the new sign is a permanent sign and Mr. Rodriguez said yes and that it will be solar powered.

Vice Chair Galang asked what is the speed limit along Calaveras Road and Mr. Rodriguez said 35 mph.

Vice Chair Galang how many lanes are there on East Calaveras and Mr. Rodriguez said there are two lanes, one in each direction.

Vice Chair Galang asked staff if the City could add a left turn lane for residents and Mr. Rodriguez said that staff would not recommend that at this time.

Commissioner Azevedo asked what is the height of the homes and Ms. Duncan said the maximum height of the buildings is 30 feet.

Commissioner Mandal pointed out that the horse ranch has been there since the 1800's and the odor might be blown toward the homes. He asked how could the property owners be notified about this. Mr. Williams said that this could be added to the conditions of approval.

Motion to approve Major Tentative Map No. MA2004-3, Zone Change No. ZC2004-1, "S" Zone Approval Amendment No. SA2005-16, and Environmental Impact Assessment No. EA2005-8 with all of the special conditions and findings noted in the staff report and a new condition that reads below:

" The seller shall provide disclosure of ranch activity through a recommended disclosure document to the satisfaction of the City Attorney."

M/S: Mandal/Azevedo

AYES: 6

NOES: 0

**2.
MAJOR TENTATIVE
PARCEL MAP NO.
MA2005-9, "S" ZONE
APPROVAL NO. SZ2005-
9 AND
ENVIRONMENTAL
IMPACT ASSESSMENT
NO. EA2005-11**

Kim Duncan, Junior Planner, presented a request to demolish an 124,026 square foot industrial building and construct twelve (12) new R&D buildings, totaling 128,712 square feet, a Tentative Parcel Map to subdivide the new buildings into approximately 69 condominium units, sign program, and site modification including the removal of protected trees, new landscaping, and reconfigured parking, located at 1100 Cadillac Court. Ms. Duncan recommended approval with conditions and also mentioned the revised plans regarding impacts to building D.

Chair Williams asked if the applicant provided color swatches and Ms. Duncan said yes.

Commissioner Mandal asked if the project will be wired with technological equipment and Ms. Duncan deferred the question to the applicant.

Chair Williams invited the applicant.

Ernie Knobel, Vice President for Venture, 600 Miller Avenue, Mill Valley, announced that the Venture commerce center provides an opportunity for small business owners to own their own business. The project is designed up to 69 individual business properties and is available for purchase for long term investment. They worked closely with staff for several months, reviewed the staff report and fully agree with all of the conditions.

Ralph Le Roux, DES Architects and Engineers, 3999 Bradford Street, Redwood City, stated that when he first started designing the project, he worked with planning and engineering staff and also had separate meetings with the community and the neighbors Avantech. He explained this it is a light industrial R&D building, not commercial, and the buildings are colorful with added landscape screening from the residential neighborhood.

Commissioner Mandal asked if the buildings are fully wired with Internet connection. Mr. Knobel explained that all of the properties are wired to provide for communication features, however these are individual properties and the owners will make a selection of what requirements they need but it will be available.

Commissioner Mandal asked if the applicant considered wireless hot points within the complex. Mr. Knobel said that this is an owner occupied development and like other condo complexes, there is a HOA where the business owners make their own decisions of how they want their buildings to be.

Chair Williams asked what dialog did the applicant have with the community. Mr. Le Roux said he met with the residents early on in the project when they were in sketch design. Management set up a meeting about 10 months ago and five or six people attended the meeting. He said that one gentleman was concerned about traffic and noise and truck doors. They also met with the neighbors Avantech, and came to a compromise about screening trees and building issues. The applicant ended up making building d smaller by ten feet so it is now 20 feet from the property line.

Commissioner Mandal asked if they are going to use solar power and Mr. Le Roux said no.

Vice Chair Galang asked about the new roof mounted air conditioning. Mr. Le Roux explained that it is quite typical to put an air conditioning unit on top of a roof of an R&D building and screen it with a parapet wall, which has a sound and vision barrier.

Commissioner Tabladillo asked about the C.3 requirements for this project and is concerned about safety in regards to extra water draining into the lagoon. Ms. Duncan explained that the applicant provided staff a storm water pollution prevention plan and the applicant will be making modifications to the existing storm drain systems and will be using the lagoon for filtration.

Commissioner Tabladillo suggested adding appropriate signs near the lagoon to ensure safety. Ms. Duncan said that it could be added as a condition of approval.

Chair Williams opened the public hearing

Kerry Davenport, 1151 N. Abbott Avenue, lives at Dixon Landing Condominiums right behind the proposed site. She stated that a gentleman came to their board meeting and was vague about the whole project. She is concerned about noise and construction and would like more specific information concerning construction times. As far as demolition goes, she asked if there is asbestos or lead. She is also concerned about privacy when the buildings go up and asked if people are going to be able to look inside their homes. She also pointed out that the lagoon is always flooding.

Jeff Whitman, 101 Race Street, Attorney for Avantech, said they had serious concerns about this project and reached an agreement with the applicant. The first part of the agreement was the modification of building D and the plan was labeled alternate 1.1. The second part of the agreement was related to reconstruction of certain storm drain lines and one of those is on the applicant's property. There is an easement on the applicant's property but benefits Avantech's property. Relocation of the easement would impact building D and C, and a third part to the agreement is that there would be ten trees that would be planted in front of building. He is requesting that the Commission incorporate the various parts of the agreement as part of the conditions of approval. He also asked staff to clarify the location of signage.

Brad Hall, 1161 North Abbott Avenue, said that he has been getting mixed messages from the applicant. First he thought that it was going to be a ten unit building and now he hears it is going to be a twelve unit building and this really concerns him. He said he has spent a lot of money on his home and that people in the new buildings will be able to look directly into his house. He is also concerned about potential flooding. He requested that the Commission continue the public hearing so that the applicant and staff can have a meeting with the HOA.

Nathan Heimlech, 1202 N. Abbott, said he is concerned because his house is the closest to the building on the right and is very visible. He is concerned about the storm drainage because the creek water levels rising very high every winter and the trees are the only privacy for the residents. He needed clarification on the height of the buildings, landscape screening and the definition of R&D. He also asked if this project might possibility become a commercial property in the future.

Close the public hearing

Motion to close the public hearing.

M/S: Azevedo/Mandal

AYES: 6

NOES: 0

Chair Williams asked staff to respond to the residents concerns. Regarding construction times, Ms. Duncan noted that the Milpitas Municipal Code provides construction hours of operation for activity as 7 a.m. to 7 p.m. weekdays and weekends. Mr. Williams added that this is a discretionary review and the Commission has the right to condition this project as sees fit which might be more restrictive than what the zoning code allows.

Regarding asbestos or lead during construction, Ms. Duncan said that part of the building permit process for any demolition, requires contractors to obtain approval for removal of asbestos from the Bay Area Air Quality Management district as well as any potential lead from the State Department of Toxic Substance Control prior to any demotion activity.

Regarding privacy issues, Ms. Duncan explained that the applicant is proposing to enhance the landscaping around the lagoon area. Ms. Duncan showed the plans on the overhead. Mr. Le Roux added that they decided to leave most existing trees and there will be more screening landscaping.

Regarding the stormwater drainage into the creek, Mr. Williams explained that the water does drain into the lagoon. The storm drain with the enhancements will be an improvement to the existing storm drain system.

Regarding the definition of R&D building and if the possibility that the existing property will become a commercial building in the future, Mr. Williams explained that right now it is a manufacturing zone. R&D means Research and Development and light manufacturing and there is no retail that is allowed. If there were an application for a retail use, it would require a Use Permit and would have to come back to the Planning Commission for public hearing. If there is any medical or dental office that would occupy these buildings, it also requires a Use Permit.

Regarding the agreement between Avantech and Venture, Assistant City Attorney Pio Roda said that it is between the applicant and Avantech and they should work out the issues on their own because it is not city property and should not be added to the conditions of approval.

Mr. Whitman said that there should be two separate written agreements one for the work on Avantech's property and one for the relocation of the easement on the applicant's property. Those agreements have not yet been finalized and that is why he is suggesting that they be added to the conditions of approval.

Mr. Williams said based on the drainage improvements and the agreements, they need to be placed before the issuance of building permits.

Chair Williams asked about the height of the buildings in relationship to the line of site to the dwelling. Mr. Le Roux said he doesn't remember the exact height of the existing building, however the proposed building is 32 feet, 8 inches high.

Chair Williams asked if these buildings would be designed to have living accommodations on top. Mr. Le Roux said these are commercial condominiums and there is no room for living spaces.

Commissioner Mandal said the citizens were concerned that the plans were not made available to the HOA and asked staff to clarify. Ms. Duncan said that letters were mailed out for a radius of 300 feet and a legal notice was published in the *Milpitas Post* letting the public know all documents were available in the Milpitas Planning Department.

Mr. Williams mentioned that staff reports and plans are available online the Monday before the Planning Commission meeting.

Commissioner Mandal said the public is concerned that their living rooms will be exposed if the existing trees are removed. Ms. Duncan clarified that the height of the trees will be 30 feet for the trees that are proposed to be planting. As far as ensuring the privacy, all the trees they are proposing to be removed is throughout the entire site.

Mr. Knobel said they have always been very conscientious about any visibility with the residential area and not removing the trees between the project and felt they were enhancing the area with landscaping. There are some trees that have to be replaced because of relocation of curbing that will damage the existing trees.

Commissioner Tabladillo asked staff to clarify the possibility of the lagoon overflowing and if the new drainage would help alleviate the problem. Mr. Williams stated that with the NPDES requirements there would be more retention on site and less stormwater leaving the site.

Commissioner Azevedo suggested continuing this item so that staff and the applicant can meet with the HOA to work out the issues.

Motion to continue Major Tentative Parcel Map No. MA2005-9, “S” Zone Approval No. SZ2005-9 and Environmental Impact Assessment No. EA2005-11 to March 22, 2006.

M/S: Azevedo/Tabladillo

AYES: 5

NOES: 1 (Chair Williams)

**X.
ADJOURNMENT**

The meeting was adjourned at 9:06 p.m. to the next regular meeting of March 8, 2006.

Respectfully Submitted,

Tom Williams
Planning and Neighborhood Services
Director

Veronica Bejines
Recording Secretary